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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/734,983

12/15/2003

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2118

7590

01/17/2006

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EXAMINER

CAPUTO, LISA M

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EJK

Office Action Summary	Application No. 10/734,983	Applicant(s) FIGUERAS ET AL.	
	Examiner Lisa M. Caputo	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 2,13-17 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9-12 and 18 is/are rejected.
- 7) ☒ Claim(s) 5,8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Election/Restriction

1. Receipt is acknowledged of the response to the election/restriction filed 27 October 2005. An election was made without traverse to prosecute the invention of Group I, claims 1, 3, 5, 6-12, and 18. Examiner is adding claim 4 to this group since it seems to belong with this grouping*. Hence elected Group I consists of claims 1, 3-12, and 18. Claims 2, 13-17, and 19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

*It should be noted that in the requirement for election/restriction set forth by Examiner Diane Lee on 30 September 2005, claims 4-5 were inadvertently left out of the restriction groupings. Claim 4 as determined by the new examiner of record in the case seems to belong in Group I as elected, and claim 5 is dependent on claim 3, and hence was elected by the applicant to this grouping as well. The case will now be examined by Examiner Lisa Caputo.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration.

Drawings

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal (i.e. they are hand-drawn and do not include reference numbers). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because of its informal wording. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative. The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;

Art Unit: 2876

- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Appropriate correction is required.

5. The disclosure is objected to because of the following informalities:

The detailed description of the drawings should provide reference numbers corresponding to reference numbers on the drawings so that the invention is well described and easy to understand.

Appropriate correction is required.

Claim Objections

6. Claims 1, 3-12, and 18 are objected to because of the following informalities:

The claims as recited are not in proper grammatical form (i.e. the claims seem to be sentence fragments) and do not seem to be coherent with respect to one another (i.e. claim 1 talks about a control card check as a wireless digital device and claim 3 talks about transmitting an identification code to the bank network host but does not mention the control card check). In addition, the claims do not encompass or express

what is the invention, as they seem to re-state well known methods and objects (i.e. the frequency shift keying in claim 6). Examiner will treat the claims and reject them as best understood and interpreted.

Appropriate correction is required.

7. Claims 5 and 8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits. Note: In claim 5, lines 5, the phrase "Subsequent to claim 3, 6, and 6A" is interpreted by the examiner as referring to multiple claims which are not in the alternative form (i.e. claim 3 or claim 4).

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-4, 6-7, 9-12, and 18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims do not teach the technology recited as how it relates to the "control card check" in claim 1. Examiner will treat the claims and reject them as best understood and interpreted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2876

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tait et al. (U.S. Patent No. 5,550,358).

Tait teaches a non-contacting transaction system. Regarding claim 1, Tait teaches that the control card check is a wireless, digital device with a system and method for accessing individual financial records for bank and credit card customers, but not limiting the cell phone, PDA, or lap-top companies to integrate this invention into their products when it is taught that the hand-held transmitter 10 can transfer personal credit details in a non-contacting, remote fashion in the infra-red waveband (see Figure 1, col 4, lines 32-44; col 5, lines 5-10).

Regarding claim 18, Tait teaches that the signal pulses can be read using the computer software of an existing conventional card reader when it is taught that the transmitted data is received by the receiver 12 which is coupled to a conventional card swipe machine 30 by cable and connector 32,34, respectively (see Figure 1, col 5, lines 10-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 3, 6-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tait. The teachings of Tait have been discussed above.

Regarding claim 3, although Tait teaches the step of transmitting an identification code to the bank network host processor that recognizes the identification of the card through a modem when it is taught that the receiver 12 may be coupled by a modem or the like over the telephone network to a central data processing and storage unit where details of the transactions are allocated to the user's account for subsequent billing (see Figure 1, col 2, lines 64-67), Tait fails to specifically teach that the modem is ideal for GSM backhaul and ISP trunking that is an international standard. Further, regarding claims 6-7 and 9-11, although Tait fails to specifically state that "frequency shift keying", "compressed wave format", a micro-mixer, and a micro-potentiometer are used, and that memory is initialized within the hand-held transaction system, Tait does indeed teach the use of a conventional hand-held transmitter 10 that sends information to a conventional receiver 12 which utilizes these types of technologies.

Hence, it would have been obvious to one of ordinary skill in the art at the time the invention was made to discern that these technologies are well known and conventional in the art to send the transaction information that is being transmitted and to keep the system running smoothly.

11. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tait in view of Dittmer et al. (U.S. Patent No. 5,237,487, from hereinafter "Dittmer"). The teachings of Tait have been discussed above.

Regarding claims 4 and 12, although Tait teaches the use of a pin number in order to keep accounts safe, Tait fails to teach that the four-digit pin is entered onto a touch screen which gives options to choose from such as "current balance" etc.

Dittmer teaches a transaction terminal having a base unit and portable unit. Referring now to FIG. 1, shown there is a transaction terminal 20 which comprises a portable hand-held data input module 22 and a base module 24 that includes a printer and a power supply. The hand-held module 22 may be selectively engaged with and disengaged from the base module 24. An upper surface 26 of the module 22 provides means for inputting of data, which may include a keyboard and display or a touch screen, as will subsequently be described. Additional means for inputting data to the module 22 include a magnetic stripe reader 28 with associated guideway 30, a digitizer 32 on which hand-written data can be input, and a data storage disk 34 (see Figure 1, col 3, lines 3-15). Further, Dittmer explains that the touch screen 72 can be programmed to provide a large number of configurations in accordance with the nature in which the terminal 20 is to be used (see Figures 4-6, col 4, lines 8-19).

In view of the teaching of Dittmer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a touch screen on the user's apparatus because a touch screen makes it easier for the user to be able to see what they are inputting, so that they do not make mistakes. In addition, it is favorable to provide the customer with options so that they know in advance which options to choose, and hence the system is more user friendly.

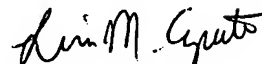
Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (571) 273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**lisa.caputo@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lisa M. Caputo
AU 2876
January 9, 2006